

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT E. TITUS, JR.,

Plaintiff,

v.

Case No. 16-cv-10951

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

OPERATING ENGINEERS' LOCAL 324
PENSION PLAN,

UNITED STATES MAGISTRATE JUDGE
ANTHONY P. PATTI

Defendant.

**ORDER DEFERRING RULING ON MOTION FOR ATTORNEY'S FEES PENDING
OUTCOME ON APPEAL [49]**

This case concerns the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001. The Plaintiff filed a Complaint on March 16, 2016, asserting three claims. *See* Dkt. No. 1. On February 27, 2017, the Court granted the Defendant's Motion for Partial Judgment on the Pleadings as to Claims I and II, and on June 28, 2017, denied Plaintiff leave to amend. *See* Dkt. Nos. 34, 40. Then, on November 8, 2017, the Court granted the Defendant's Motion for Judgment on the Administrative Record. *See* Dkt. No. 46. Accordingly, the Court entered Judgment in favor of the Defendant. Dkt. No. 51.

Relying on this Judgment, the Defendant filed a motion on December 6, 2017 to recover its attorney's fees. *See* Dkt. No. 49. A day prior, however, the Plaintiff

appealed the Court's Opinion and Order granting the Defendant's Motion for Judgment on the Administrative Record. *See* Dkt. No. 47.

Therefore, the Court will DEFER a decision on the Defendant's Motion for Attorney's Fees [49] pending the outcome on appeal.

IT IS SO ORDERED.

Dated: March 21, 2018

/s/Gershwin A. Drain
GERSHWIN A. DRAIN
United States District Judge

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 21, 2018, by electronic and/or ordinary mail.

/s/ Tanya Bankston
Deputy Clerk